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Attorneys for Respondent/
Cross-Petitioner
[Plaintiff in Arbitration]
PAC PACIFIC GROUP INT'L,
INC. OF USA ("PPGI")

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

**NGC NETWORK ASIA, LLC
["NGCA"],**

Petitioner,

vs.

**PAC PACIFIC GROUP INT'L,
INC. OF USA ["PPGI"],**

Respondent.

USDC 1:07-CV-2855

**On Removal from NY Supreme Ct.
No. 600912/07
[Amer. Arb'n Assn. No.
50 181 T 00079 07]**

**AFFIRMATION/AFFIDAVIT OF
JOHN F.L. HEBB AS TO
DOCUMENTS SUBMITTED IN
THIS MATTER**

AFFIRMATION/AFFIDAVIT OF JOHN F.L. HEBB AS TO DOCUMENTS SUBMITTED

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**AMERICAN ARBITRATION
ASSOCIATION**

ARBITRATION IN THE MATTER

OF:

**PAC PACIFIC GROUP INT'L,
INC. OF USA ["PPGI"],**

Plaintiff

vs.

**NGC NETWORK ASIA, LLC
["NGCA"],**

Defendant

JOHN F.L. HEBB, an attorney admitted to practice in the federal and state courts of California, and pro hac vice applicant in this court, affirms under penalty of perjury as follows:

1. I am one of the attorneys for Respondent/Cross-Petitioner PAC PACIFIC GROUP INT'L, INC. OF USA [Petitioner in Arbitration] in the above captioned action. I am familiar with the proceedings in this case. I make this statement based on my personal knowledge of the facts set forth herein and in support of Respondent's opposition and cross-petition in this matter.

2. In documents already on file in this case [at page 3, lines 5 – 16 of PPGI's

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1 “PLAINTIFF’S NOTICE OF INTENT TO ARBITRATE/ AMENDED CLAIM
2 [AMENDMENT OF CLAIM IN PLAINTIFF’S INITIAL NOTICE OF INTENT TO
3 ARBITRATE SERVED ON DEFENDANT 10/4/03]”, at Exhibit C to the Affirmation of
4 Carl LeSueur accompanying NGCA’s pleadings in New York State Court, and
5 transferred on removal to this Court], it is stated:
6

7
8 “Plaintiff PPGI previously served its NOTICE OF INTENT TO
9 ARBITRATE on defendant on 10/4/03, pursuant to section 19 of the parties’
10 Agreement by faxing same to:

11 NGC Network Asia, LLC, to Ward L Platt
12 Managing Director
13 One Harbourfront, 8th Floor
14 18 Tak Fung Street
15 Hunghom, Kowloon
16 Hong Kong SAR
17 Facsimile transmission number: 852 2621 8826 and 8822

18 With a copy to Geng Wei-min
19 Director - Distribution China
20 1301, North Tower
21 Beijing Kerry Centre
22 1 Guanghai Road, Chaoyang District
23 Beijing 100020 China
24 Facsimile transmission number: 86 10 8529 8462.

25 NGCA responded in writing to said 10/4/03 Notice only by its in-house
26 counsel, disputing plaintiff’s claim but declining to participate in any
27 arbitration. Thereafter, several years ensued in which various successive in-
28 house counsels of defendant, now no longer employed by defendant, pleaded
the need for more time because of maternity leave, vacations, desire for more

AFFIRMATION/AFFIDAVIT OF JOHN F.L. HEBB AS TO DOCUMENTS SUBMITTED

1 data; and to this date by and through the fourth in-house counsel, have refused
2 and still refuse to enter into arbitration.”
3

4
5 To further the record in this matter, I state separately here that the facts stated in the
6 foregoing quote are correct, and that I personally sent the 10/4/03 notice in exact
7 conformance with the parties’ agreement [namely section 19 of the Memorandum of
8 Understanding also already on file in this matter].
9

10 **3.** Further, while (1) I will bring to the 7/31/07 scheduled hearing in this matter the
11 underlying documents or copies thereof, and will be prepared to affirm their
12 authenticity under oath if needed, and (2) I do not see any dispute in the pleadings
13 that NGCA failed, neglected or refused to arbitrate, until its 2007 only partial and
14 conditional participation, I here attach a true and correct copy of the relevant
15 10/13/03 NGCA faxed response of its counsel Emma Moloney to PPGI’s 10/4/03
16 Notice, whereby it at that date failed, neglected or refused to arbitrate (culminating
17 in item 3 of the fax) and did so without specifying any procedural objection that
18 PPGI could and would have addressed had one been raised.
19

20 Respectfully submitted,
21

22 DATED: 7/26/07
23

24 By: S/ John L. Hebb
25 JOHN F.L. HEBB, Esq.
26 Attorney for Respondent/Cross-Petitioner [Plaintiff
27 in Arbitration] PAC PACIFIC GROUP
28 INT’L, INC. OF USA ("PPGI")

AFFIRMATION/AFFIDAVIT OF JOHN F.L. HEBB AS TO DOCUMENTS SUBMITTED